

V

"The article of food, labeled in part, 'Mrs. Price's Compound', is misbranded within the meaning of Section 403 (a) of the Act in that the statements in Exhibits A, B, C, and D are misleading since such Exhibits, when read in their respective entirety, represent and suggest, and engender the impression in the minds of readers, that said 'Mrs. Price's Compound', when used as directed in its labeling in the canning of vegetables, fruits, pickles and preserves, is safe and appropriate for such uses, and will effect proper sterilization, conservation and preservation of home canned foods; whereas, use of said 'Mrs. Price's Compound', as directed, is potentially dangerous to the health of the consumer, and will not insure proper sterilization, conservation and preservation of home canned foods.

VI

"The article of food and drug, labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid' is misbranded within the meaning of Sections 403 (a) and 502 (a) of the Act in that the statements in Exhibits A and B are misleading since such Exhibits, when read in their respective entirety, represent and suggest, and engender the impression in the minds of readers, that said 'Mrs. Price's Specially Prepared Package of Boric Acid', when used as directed in Exhibits A and B in the canning of vegetables, fruits, pickles and preserves is safe and appropriate for such uses, and will effect proper sterilization, conservation and preservation of home canned foods, whereas, use of said 'Mrs. Price's Specially Prepared Package of Boric Acid', as directed, is potentially dangerous to the health of the consumer, and will not insure proper sterilization, conservation and preservation of home canned foods.

VII

"The article of food, labeled in part, 'Price's No Ice', is misbranded within the meaning of Section 403 (a) of the Act in that the following statements appearing in Exhibits E and F, to wit, * * * can be used in milk or cream to prevent souring', and 'It keeps the fish or game sweet and wholesome for days after being killed, even in the warmest weather, when directions are followed, and is removed by rinsing in cold water', * * * and the statement, 'It keeps the fish or game sweet and wholesome for several days after being killed, even in the warmest weather, when directions are followed, and is removed by rinsing in cold water,' * * * is false and misleading since the article when so used will not have such effects and will not be removed by rinsing in cold water.

VIII

"During all the times since the enactment of the Federal Food, Drug and Cosmetic Act shipments in interstate commerce of the products labeled in part, 'Mrs. Price's Compound', 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Price's No Ice' have been and now are in violation of Section 301 (a) of the Act."

On June 28, 1943, judgment was entered enjoining the defendant, her employees, agents, distributors, attorneys, assigns, and any and all persons acting in concert with her, from introducing or delivering for introduction, or causing the introduction or delivery for introduction into interstate commerce of Mrs. Price's Compound, Price's No Ice, and Mrs. Price's Specially Prepared Package of Boric Acid, or any similar articles containing boric acid for any purposes whatsoever, in violation of the Federal Food, Drug, and Cosmetic Act.

The complaint alleged further that the product, "Mrs. Price's Specially Prepared Package of Boric Acid," was a drug, as reported in notices of judgment on drugs and devices.

5760. Misbranding of Mrs. Price's Specially Prepared Package of Boric Acid. U. S. v. 53 Packages of Mrs. Price's Specially Prepared Package of Boric Acid (and 5 other seizure actions against the same product). Default decrees of condemnation. Portion of the product ordered delivered to a local public institution and remainder ordered destroyed. (F. D. C. Nos. 9984, 9990 to 9993, incl., 10043. Sample Nos. 22645-F, 22647-F, 22773-F, 22775-F, 23281-F, 23282-F, 23284-F, 32514-F.)

Examination showed that this product consisted of boric acid meeting the requirements of the United States Pharmacopoeia.

Between May 20 and June 7, 1943, the United States attorneys for the Eastern and Middle Districts of Pennsylvania and the Northern District of Ohio filed libels

against 53 packages at Wilkes-Barre, Pa., 68 and 118 packages at Philadelphia, Pa., 238 packages at Lancaster, Pa., 128 and 120 packages at Harrisburg, Pa., 115 packages at Northumberland, Pa., and 5 packages at Cleveland, Ohio, each package containing 12 envelopes of boric acid and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc. * * *," alleging that the article had been shipped within the period from on or about March 15 to April 21, 1943, from Minneapolis, Minn., by the Price Compound Company; and charging that it was misbranded.

It was alleged to be misbranded (1) in that the statements in its labeling which represented, suggested, and engendered the impression in the mind of readers that boric acid, when used as therein directed in the canning of vegetables, fruits, and pickles, might safely be used for such purposes, would effect proper sterilization and would destroy bacterial spores capable of causing spoilage, and thereby prevent a substantial amount of waste in home-canned products, were misleading since such use would be potentially dangerous to the health of the consumer, would not insure proper sterilization, and would not destroy resistant bacterial spores capable of causing spoilage, and thus would not insure the prevention of a substantial amount of waste in home-canned products; (2) in that the statements in its labeling whereby the home canner was admonished to sterilize jars, and particularly rubber rings, by boiling for 15 or 20 minutes, were misleading since the directions for sterilizing were inadequate for the reason that sterilization of jars and rubber rings cannot always be accomplished by boiling for 15 or 20 minutes due to the heat resistance of spore-forming bacteria; (3) in that the statement in its labeling "Wash thoroughly, as the most dangerous and the most difficult bacteria to destroy are in the soil," was misleading since it suggested and represented that the thorough washing of vegetables would eliminate the most dangerous and difficult bacteria to destroy, the common habitat of which is in soil, whereas thorough washing of vegetables would not insure such effects; and (4) in that the statements in its labeling, "Mrs. Price's Specially Prepared Package of Boric Acid Manufactured for, Prepared and Distributed by The Price Compound Company * * * Minneapolis, Minn. * * * It is not claimed that the contents of this package contains anything of food value," were misleading since they failed to reveal the consequences which might result from the use of the article under the conditions of use prescribed in the labeling, namely, that the processing recommended would not insure proper sterilization and might thereby result in danger to health, and they further failed to reveal that the amounts of boric acid which might be ingested when the boric acid was used as prescribed was such as might render the product deleterious to health.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

Between June 26 and August 9, 1943, no claimant having appeared, judgments of condemnation were entered and it was ordered that the lots at Philadelphia and Lancaster be delivered for the use of some local public institution and that the other lots be destroyed.

5761. Misbranding of Mrs. Price's Compound. U. S. v. 119 Packages of Mrs. Price's Compound (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 9989, 9999, 10000, 10044, 10079. Sample Nos. 24595-F, 30997-F, 32515-F, 36207-F, 37964-F.)

Analysis showed that this product contained about 95 or 96 percent of boric acid and about 4 or 5 percent of sodium chloride.

Between May 21 and June 11, 1943, the United States attorneys for the Western District of Michigan, the District of Maryland, the Western District of Washington, the Northern District of Ohio, and the District of Colorado filed libels against 119 packages at Grand Rapids, Mich., 117 packages at Baltimore, Md., 114 packages at Seattle, Wash., 41 packages at Cleveland, Ohio, and 104 packages at Denver, Colo., each package containing 12 envelopes of Mrs. Price's Compound (each envelope containing a smaller envelope, setting forth certain directions for canning), and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc.," alleging that the article, which had been consigned by the Price Compound Company, had been shipped on or about March 31 and April 2 and 19, 1943, from Minneapolis, Minn.; and charging that it was misbranded.

All lots of the article were alleged to be misbranded in that the statement in their labeling which represented, suggested, and engendered the impression in the minds of readers that boric acid, when used as therein directed in the canning